

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re REFCO INC. SECURITIES LITIGATION : Case No. 07-md-1902 (JSR)
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SPECIAL MASTER ORDER ON DISCOVERY DISPUTES

WHEREAS, Defendants Mark Kavanagh and Brian Owens served a subpoena on Peter Ginsberg on September 9, 2009, in connection with the above-captioned action.

WHEREAS, defendants Derivatives Management LLC, DPM-Mellon, LLC, Derivatives Portfolio Management, LTD., DPM-Mellon, Ltd., Guy Castranova, and Bank of New York Mellon Corporation (collectively, the “DPM Defendants”) served a subpoena on Mr. Ginsberg on April 8, 2010.

WHEREAS, on June 14, 2010, Mr. Ginsberg produced a privilege log (subsequently amended on November 30, 2010).

WHEREAS, on December 8, 2010, Messrs. Kavanagh and Owens moved to compel Mr. Ginsberg to produce certain documents listed on Mr. Ginsberg’s privilege log that they contend were improperly withheld or redacted on the basis of attorney-client privilege and/or work product (the “Motion to Compel”).

WHEREAS, the DPM Defendants have joined in Messrs. Kavanagh and Owens’ efforts to compel Mr. Ginsberg to produce documents.

WHEREAS, on December 15, 2010, Mr. Ginsberg objected to the Motion to Compel.

WHEREAS, the Special Master heard oral argument on the Motion to Compel on December 21, 2010, and subsequently heard from the parties in various informal written

submissions, as well as at in person conference held on February 9, and a telephonic conference held on March 18, 2011. *and having considered Mr. Ginsberg's objectives;*
 SPECIAL MASTER RONALD J. HEDGES, for good cause shown, hereby orders as follows:

1. Mr. Ginsberg shall run the following search terms through all e-mails, attachments, and other documents listed on his privilege log dated between January 1, 2004, and one year after Mr. Ginsberg's disengagement as counsel to the SPhinX Funds:

- DPM
- DPMM
- Derivative Portfolio Management
- Mellon
- Mallon
- Aaron
- Pricewaterhousecoopers
- S+P
- S&P
- Standard & Poor
- Standard AND Poor
- Standard & Poor's
- Standard & Poors
- Cavanagh
- Cavanaugh
- Kavanaugh
- Kavanagh
- Owens
- Owen
- Offshore
- Gibson Dunn
- GD&C
- GDC
- Plus
- Plusfunds
- PFGI
- Pfunds
- Phil
- Hardwick
- Hardwicke
- Hackl
- Bennett
- Sugrue
- Chris
- Aliprandi
- Refco
- Rcm
- Bousbib
- Gabriel
- Castranova

2. Mr. Ginsberg shall turn over to Gibson, Dunn & Crutcher LLP, counsel to Messrs. Kavanagh and Owens, and DLA Piper LLP (US), counsel to the DPM Defendants, an unredacted copy of all documents responsive to the above-referenced search terms within seven (7) days from the entry of this order.

3. Mr. Ginsberg shall make a copy of all such documents produced to Messrs. Kavanagh and Owens and the DPM Defendants available upon request to any party in the action captioned *Krys, et al. v. Sugrue, et al.*, Nos. 08 Civ. 3065 & 3086, and *Krys, et al. v. Aaron, et al.*, No. 08 Civ. 7416.

4. Pursuant to the 502(d) protective order previously entered by this Court on January 24, 2011, Mr. Ginsberg shall not be deemed to have waived or forfeited any claim of attorney-client privilege or attorney work product protection that Mr. Ginsberg or his clients would otherwise be entitled to assert with respect to such documents, communications, and information.

SO ORDERED this 24th day of March, 2011



HON. RONALD HEDGES
SPECIAL MASTER